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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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10/659,297

09/11/2003

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P24194

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7055 7590 11/19/2008  
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EXAMINER

PHILOGENE, PEDRO

ART UNIT

PAPER NUMBER

3733

NOTIFICATION DATE

DELIVERY MODE

11/19/2008

ELECTRONIC

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

Notice of the Office communication was sent electronically on above-indicated "Notification Date" to the following e-mail address(es):

gbpatent@gbpatent.com  
pto@gbpatent.com

<b>Office Action Summary</b>	<b>Application No.</b> 10/659,297	<b>Applicant(s)</b> SUZUKI ET AL.	
	<b>Examiner</b> Pedro Philogene	<b>Art Unit</b> 3733	

**-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --**

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 30 June 2008.
- 2a) ☐ This action is **FINAL**.                      2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 3 and 12-14 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 3, 12-14 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All    b) ☐ Some \*    c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)          | 4) <input type="checkbox"/> Interview Summary (PTO-413)           |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____                                      |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)          | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date _____  | 6) <input type="checkbox"/> Other: _____                          |

***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 3, 12-14 are rejected under 35 U.S.C. 103(a) as being unpatentable over Burgess et al. (20030114853) in view of Jackson et al. (5,716,355).

With respect to claim 3, Burgess et al disclose a rod connector (66) comprising a connector main body (76) swingably attached to a shank (68), the connector main body comprising a recess configured to engage part of a spherical end portion (72) of the shank, part of the spherical end portion extending outside of the recess in a direction towards the shank; as best seen in FIG.5 a rod supporting portion, as best seen in FIG.5, provided in the connector main body and configured for supporting a rod (12); as best seen in the FIGURES; and a pressure fixing device (34) for pressure fixing the rod to the rod supporting portion of the connector main body; as best seen in the FIGS.

It is noted that Burgess did not teach of each convex portion comprising a sharp distal end, as claimed by applicant. However, in a similar art, Jackson et al provide the evidence of the use of supporting portion comprising a plurality of convex portions (teeth 44, 46 in the inner concave portion) comprising sharp distal end (end of the teeth) to grip the connector rod when the clamp is tightened.

Therefore, give the teaching of Jackson et al, it would have been obvious to one having ordinary skill in the art, at the time the invention was made to modify the rod

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supporting portion of Burgess; as taught by Jackson et al by providing convex portion with sharp distal end in the device of Burgess, to grip the connector rod when the connector main body is tightened.

With respect to claims 12-14, Jackson et al teach of a rod supporting portion between the convex portion further comprising a rough surface; as set forth in column 6, line 1. Each convex portion further comprises a convex surface and each distal end including a surface substantially normal to the rod supporting surface; as best seen in FIG.2. The rod supporting portion having a longitudinal direction for supporting the rod along the longitudinal direction of the rod, as best seen in Fig.2 at 19, 44, 46 and each convex portion further comprising a convex surface in the longitudinal direction of the rod supporting portion, the convex portions projecting away from each other; as best seen in FIG.2 at 44 and 46.

### ***Response to Arguments***

Applicant's arguments, see Remarks, filed 6/30/08, with respect to the rejection(s) of claim(s) 3 under 103 have been fully considered and are persuasive. Therefore, the rejection has been withdrawn. However, upon further consideration, a new ground(s) of rejection is made in view of Jackson et al. The reference to Jackson et al teaches of a rod supporting portion (22) having a concave surface comprises convex portions at both ends of the rod supporting portion (the teeth on the inner surface of the rod supporting portion form the convex portion since they are serrated forming peaks and valleys in the inner concave surface of the rod receiving portion). Applicant is only claiming that the rod supporting portion comprises convex portions at both ends of the

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rod supporting portion, each convex portion comprising a sharp distal end (the tip of the teeth) configured to be embedded into the rod; therefore, the rod supporting of Jackson et al comprises convex portions and the teeth of Jackson are fully capable of being embedded into the rod.

### ***Conclusion***

A shortened statutory period for reply to this action is set to expire THREE MONTHS from the mailing date of this action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Pedro Philogene whose telephone number is (571) 272-4716. The examiner can normally be reached on Monday to Friday 6:30 AM to 4:00 PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Eduardo Robert can be reached on (571) 272 - 4719. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Pedro Philogene/  
Primary Examiner, Art Unit 3733  
November 13, 2008